

REMARKS

Reconsideration of this application is requested.

By the present amendment, Claims 82 – 84, 88 – 94 have been amended and new Claim 100 added.

A new amendment for page 1 adds a patent number reference. A new amendment is submitted for page 4, lines 2-14 because the earlier one inadvertently referred to page 3 rather than page 4.

Turning to the rejection under Section 102 on Toi, it is respectfully submitted that Toi neither anticipates nor makes obvious a construction defined in the present claims. Claims 62 – 79 and 82 – 97 particularly define over Toi because of the nature of the proximal end of the body is defined to cover structures of the nature of Figures 15 through 17. In particular, Claims 62 through 81 define “one or more lateral surfaces on the proximal end of the body, substantially enclosing a recess for receiving the proximal end of the syringe.” Toi on the other hand, has a completely open proximal end and at best has several clips for engaging the lip of a syringe. Thus, it is respectfully submitted that these Claims 62 – 79 clearly define patentable subject matter over Toi.

Similarly, amended Claims 82 through 97 particularly define “the proximal end of the body having a wall for substantially enclosing a recess for receiving the proximal end of the syringe” and, again, Toi does not disclose anything similar nor

equivalent. Thus, it is respectfully submitted that these Claims 82 through 97 define patentable subject matter over Toi.

Turning to Claims 80-81 and 98 – 100, each of these claims particularly defines “a plurality of slots” for receiving a portion of the lip of the syringe (Claims 80 – 81), or “the one or more lateral surfaces comprising one or more slots for receiving at least a portion of the lip of the syringe” (Claims 98 – 99), or “the recess being provided with slots adapted to substantially permanently engage a lip on the proximal end of a syringe received in the recess” (new Claim 100). Toi has clips, but does not have slots for receiving the lip of the syringe, such as slot 57 for holding a prefilled syringe. (Note, for example, slot 57 in Fig. 2a, Fig. 2c, Figs. 4 – 5 and 18-19). Thus, it is respectfully submitted that the structures defined in these claims are not anticipated by nor obvious in view of Toi nor any of the other art of record.

The double patenting rejection is noted and a suitable disclaimer is intended to be submitted in due course.

Reference is made to the patent lawsuits involving parent Patent No. 6,344,032 of the present application: *Safety Syringes, Inc. v. Becton, Dickinson and Company*, Case No. 01-CV-2031 B (JMA) in the United States District Court, Southern District of California, and *Safety Syringes, Inc. v. Aventis Pharmaceuticals, Inc.* Case No. 03-CV-1376 B (JMA).

No art other than as cited in that patent has been raised in the lawsuits, except U.S. Patent No. 5,437,674 (Firth et al.), U.S. Patent No. 5,242,416 (Hutson) and U.K. Patent Application GB 2283425 (Toi). It is respectfully submitted that the present claims also define patentable subject matter over each of these patents.

The U.K. application is the Toi publication discussed above. The Hutson '416 patent is distinguishable for reasons similar to those discussed with regard to Toi above. The Firth et al. patent is one of Applicants' patents previously cited by Applicants in the IDS dated December 17, 2001 and previously considered by the Examiner, and the same is not believed to be at all relevant to the present claims.

Favorable reconsideration and a Notice of Allowance is requested.

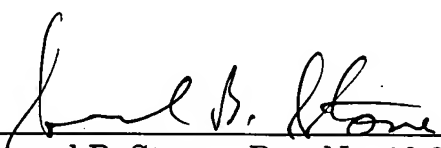
Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 150665.

Respectfully submitted,

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Dated: 3-12-04

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